

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

e.DIGITAL CORPORATION,	)	
	)	
Plaintiff,	)	
v.	)	CIVIL ACTION
	)	NO. 2:08-cv-93-DF-CE
AVID TECHNOLOGY, INC., et al.,	)	
	)	
Defendants.	)	
	)	

**JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Pursuant to Patent Rule 4-3 and in accordance with the Court’s Docket Control Order (Doc. No. 102), Plaintiff e.Digital Corporation (“e.Digital”) and Defendant Samsung Electronics America, Inc. (“Samsung”) hereby jointly serve this Joint Claim Construction and Prehearing Statement.

**(a) Identification of Claim Terms, Phrases or Clauses on which the Parties Agree:**

The parties have reached an agreement regarding the proposed constructions for the following claim phrases:

Phrase	Claims in which terms are present	Agreed Proposed Construction
“removable, interchangeable”	‘774 Patent, Cls. 1 & 19	“capable of being removed from one device and readily transferred to another similar device”
“multifunctional switch assembly”	‘737 Patent, Cls. 1 & 3	“a switch assembly that allows the user to activate multiple functional operations”

**(b) Identification of Proposed Constructions of Disputed Claim Terms, Phrases or Clauses:**

Exhibit A hereto sets forth: (1) the claim terms, phrases and clauses that the parties agree should be construed; (2) the claim terms, phrases and clauses that only e.Digital contends should be construed; and (3) the claim terms, phrases and clauses that only Samsung contends should be construed. Exhibit A also identifies for each such claim term, phrase and clause an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction of the claim or to oppose any other party's proposed construction of the claim, including, but not limited to, as permitted by law, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses.

**(c) Length of *Markman* Hearing:**

The parties anticipate that they will need no more than 3 hours for the claim construction hearing.

**(d) Identification of Witnesses for Claim Construction Hearing:**

e.Digital does not intend to call any witnesses for the claim construction hearing. Samsung may submit written testimony from and potentially call Joseph C. McAlexander as an expert witness at the Claim Construction Hearing. Mr. McAlexander may offer testimony regarding the technology of the patents-in-suit, the level of ordinary skill in the relevant art, and the meaning of the disputed claim terms and phrases to one of ordinary skill in the art at the relevant time. Mr. McAlexander may also offer testimony on the prosecution histories of the patents-in-suit, or the prior art cited therein, or how those materials would be understood by one of ordinary skill in the art. Mr. McAlexander may also offer testimony to rebut extrinsic

evidence offered by e.Digital. Mr. McAlexander's testimony may include, but is not limited to, testimony regarding how the two patents-in-suit are directed to hand-held voice recording devices that record audio signals on flash memory without using another memory system such as RAM. His testimony may concern voice recording and playback devices, nonvolatile computer chip memory, solid state devices, and related topics. A copy of Mr. McAlexander's *curriculum vitae* is attached as Exhibit B.

**(e) Identification of Other Issues to be Addressed at Claim Construction Hearing:**

The parties do not believe that there are any other issues to be addressed at the claim construction hearing that is currently set for 9:00am on February 17, 2010.

Jointly and respectfully submitted this 19<sup>th</sup> day of June 2009.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on June 19, 2009. Any other counsel of record will be served by First Class U.S. mail on this same date.

/s/ Michael E. Jones